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December 9, 2014

BY ECF, CHAMBER'S EMAIL, AND HAND DELIVERY

Honorable Stuart M. Bernstein
United States Bankruptcy Judge
United States Bankruptcy Court,
Southern District of New York
One Bowling Green
New York, New York 10006

Re: *SIPC v. Bernard L. Madoff Inv. Secs. LLC*, No. 08-1789 (SMB), *Picard v. Ceretti, et al.*, Adv. Proc. No. 09-1161 (SMB) (Bankr. S.D.N.Y.)—
Motion to Dismiss Scheduled to be Heard on December 17, 2014

We represent the Joint Liquidators of Kingate Global Fund Ltd. and Kingate Euro Fund Ltd. (the "Kingate Funds"), which together have a pending motion to dismiss (Docket No. 111) in the above-referenced proceeding scheduled to be heard by Your Honor on December 17, 2014. We write to inform the Court of a recent decision by the U.S. Court of Appeals for the Second Circuit that bears upon the pending motion. Specifically, in its December 8, 2014 decision in *SIPC v. Ida Fishman Revocable Trust*, App. No. 12-2557, 2014 WL 6863608 (2d Cir. Dec. 8, 2014) (copy enclosed as Exhibit A), the Second Circuit affirmed Judge Rakoff's determination in *SIPC v. Bernard L. Madoff Inv. Secs. LLC*, 476 B.R. 715 (S.D.N.Y. 2012) that section 546(e) applies to fraudulent transfer claims asserted by the Trustee under Bankruptcy Code sections 544, 547, and 548(a)(1)(B).

Respectfully submitted,

/s/ Robert S. Loigman
Robert S. Loigman

cc: Counsel for Trustee (via ECF and email)
Counsel for the FIM Defendants (via ECF and email)
Counsel for HSBC Bank Bermuda Limited (via ECF and email)
Counsel for Citi Hedge Fund Services Ltd. (via ECF and email)
Counsel for the Trust Defendants (via ECF and email)

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